

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CLAUDIA RAMIREZ, et al.,

Plaintiffs,

v.

CORNERSTONE BUILDING BRANDS,  
INC., et al.,

Defendants.

No. 2:21-cv-01017-MCE-JDP

**ORDER**

On February 6, 2023, this Court issued a Memorandum and Order granting two Motions to Withdraw as Attorney for Plaintiffs LaJuan Dennis (“Dennis”) and Claudia Ramirez (“Ramirez”), respectively. See ECF No. 45. The Memorandum and Order stated, in part, the following:

Not later than thirty (30) days from the date this Memorandum and Order is electronically filed, Dennis and Ramirez shall each notify the Court whether they intend to proceed with this case and if so, whether they have been able to obtain new counsel or whether they intend to proceed pro se. Failure to comply with this order may result in dismissal of this action as to Dennis and/or Ramirez only.

Id. at 8. On February 7, 2023, the Memorandum and Order was served by mail to both Dennis and Ramirez. See ECF Nos. 46, 47. The thirty-day deadline has passed but to date, neither Dennis nor Ramirez have responded to the Court’s order.


1 Eastern District of California Local Rule 110 provides that the “[f]ailure of counsel  
2 or of a party to comply with these Rules or with any order of the Court may be grounds  
3 for imposition by the Court of any and all sanctions authorized by statute or Rule or  
4 within the inherent power of the Court.” “District courts have inherent power to control  
5 their dockets” and “[i]n the exercise of that power they may impose sanctions including,  
6 where appropriate, default or dismissal.” Thompson v. Housing Auth. of City of L.A.,  
7 782 F.2d 829, 831 (9th Cir. 1986). Prior to dismissing an action, however, this Court  
8 must consider the following: “(1) the public’s interest in expeditious resolution of  
9 litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the  
10 defendants; (4) the public policy favoring disposition of cases on their merits[;] and  
11 (5) the availability of less drastic sanctions.” Id.

12 Having considered each of the above factors, the Court finds dismissal of this  
13 action as to Dennis and Ramirez only is warranted. The Court granted the Motions to  
14 Withdraw as Attorneys because both Dennis and Ramirez failed and/or refused to  
15 respond to counsel’s communications. See ECF No. 45, at 2–4. Their refusal to  
16 respond to anything related to this litigation clearly indicates that they no longer wish to  
17 pursue this action. As for the risk of prejudice to Defendants, “[t]he law presumes injury  
18 from unreasonable delay.” Anderson v. Air West, Inc., 542 F.2d 522, 524 (9th Cir.  
19 1976). Dennis and Ramirez had ample opportunities to communicate with counsel and  
20 adequate time to respond to the Court’s order, which shows that the Court considered  
21 less drastic measures. Ultimately, these four factors outweigh the public policy favoring  
22 disposition on the merits.

23 Because Dennis and Ramirez have failed to prosecute this action, this action is  
24 hereby DISMISSED without prejudice as to Plaintiffs Dennis and Ramirez only. This  
25 action shall proceed with the remaining parties.

26 IT IS SO ORDERED.

27 Dated: March 28, 2023

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MORRISON C. ENGLAND, JR.  
SENIOR UNITED STATES DISTRICT JUDGE